

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**vs.**

**JEANETTE MARIE RUBIO,**

**Defendant.**

**8:03CR388**

**MEMORANDUM AND ORDER**

This matter is before the court on Defendant's "Motion to Withdraw her Motion to Vacate, Set Aside, or Correct Sentence by a Federal Prisoner under 28 U.S.C. § 2255" (Motion to Withdraw) (Filing No. 46), and Defendant's "Motion to Vacate Set Aside, or Correct Sentence by a Federal Prisoner under 28 U.S.C. § 2255" (§ 2255) (Filing No. 45). On November 2, 2005, this court issued an order giving the defendant thirty days to notify the court as to whether she wished to go forward with her Motion to Withdraw. On December 9, 2005, the defendant filed a response stating that it was her desire to move forward with her Motion to Withdraw (Filing No. 48). Therefore, the court will grant Defendant's Motion to Withdraw and deny her § 2255 motion.

**IT IS ORDERED:**

1. Defendant's Motion to Withdraw her Motion to Vacate, Set Aside, or Correct Sentence by a Federal Prisoner under 28 U.S.C. § 2255" (Filing No. 46) is granted.
2. Defendant's Motion to Vacate, Set Aside, or Correct Sentence by a Federal Prisoner under 28 U.S.C. § 2255 (Filing No. 45) is denied.
3. The Clerk is directed to mail a copy of this Memorandum and Order to the defendant at her last known address.

DATED this 19th day of December, 2005.

BY THE COURT:

s/ Joseph F. Bataillon

JOSEPH F. BATAILLON

UNITED STATES DISTRICT JUDGE